GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal petition filed by Smt. A. Nakshatra, D/o A. Rayanna, working as School Assistant, at Govt. Boys School, Anantapur, against the proceedings Rc.No.MC3/2948/2010, dated 16.12.2012 of the District Collector, Anantapur- under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.3 Dated: 05.01.2018
Read the following:

1. Proceedings of the District Collector, Anantapur, Rc.No.MC3/2948/2010, dated 16.12.2012.
2. Appeal petition filed by Smt. A. Nakshatra, D/o A. Rayanna, before the Government, dated 06.08.2016.
3. Orders of the Hon'ble High Court of Andhra Pradesh, Hyderabad in W.P.No.31332/2016, dated 17.09.2016.
4. Govt. Memo No.322551/CV.1/2016, dated 30.11.2016.
5. Govt. Memo No.322551/CV.1/2016, dated 17.08.2017.
6. From the District Collector, Anantapur, Lr.Rc.No.MC3/2948/2010, dated 14.09.2017.

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ORDER:

In the reference 1st read above, the District Collector, Anantapur has issued orders canceling the SC– Mala Caste Certificate of Smt. A. Nakshatra, D/o A. Rayanna, presently working as School Assistant, in Govt. Boys High School, New Town, Anantapur, as she does not belongs to 'Mala' community.

2. In the reference 2nd read above, Smt. A. Nakshatra, D/o A. Rayanna, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Anantapur, dated 16.12.2012.

3. In the reference 3rd read above, Smt. A. Nakshatra, D/o A. Rayanna has filed W.P.No.31332/2016 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the proceedings of the District Collector, Anantapur. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said W.P. on 17.09.2016 has directed the Government to consider and pass orders on the petitions filed by petitioner, both for condoning the delay and also stay of proceedings dated 16.12.2016, within six (6) weeks from the date of receipt of copy of the order and also directed to issue notice of hearing of these petitions to the petitioner herein or to the counsel appearing for petitioner. The parties are directed to maintain status quo, as on date, for a period of eight (8) weeks from today. Petitioner is given liberty to communicate the order to first respondent and seek a date for hearing of the petitions. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for parawise remarks and connected records from the District Collector, Anantapur in the reference 4th read above.

5. In the reference 6th read above, the District Collector, Anantapur has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. A. Nakshatra, D/o A. Rayanna.

6. The said appeal petition has been posted for hearing on 24.12.2016 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for

(P.T.O)

the Appellant in the references 4th & 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Anantapur and proceedings of the District Collector, Anantapur dated 16.12.2012, the Appellate Authority has observed that:

I. The appellant in her grounds has stated that earlier she belongs to Padmasali-BC-B community**,** and after marriage, she has obtained the SC-Mala caste certificate from the then Tahsildar, Puttaparthy, who after verifying all the relevant documents submitted the Appellant, based on the her husband community i.e. SC-Mala Community.

II. The District Level Scrutiny Committee has observed that the appellant has selected for the post of Secondary Grade Teacher by producing her "Padmasali (BC-B) caste certificate which is her original caste and which was obtained from the then Tahsildar, Puttaparthy on 21.03.2001 in DSC-2000. After, she married one Sri M. Bala Raju who belongs to 'Mala-SC' caste who is college mate and she has obtained SC-Mala caste certificate from the then Tahsildar, Puttaparthy by fraudulent manner and applied for the post of School Assistant in the DSC 2001-02 and selected for the post of School Assistant (Biological Science) . Further, it is very clear that being well educated person & as Government employee by way of Teacher, the appellant is ought having knowledge & awareness about the sequences by obtaining & utilizing fraudulent caste certificates by cheating the Government by mis-representing the facts. The appellant has not produced any relevant documents in support of his SC-Mala community claim. Based on the findings of the DLSC, the District Collector has cancelled the appellant's caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. Further it is observed that in Circular Memo. No. 10956/CV1/97-2, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, claiming Community Certificates 'through Marriage' is as follows :

> **"**The guiding principle is that no person who was not a Scheduled Caste or Scheduled Tribe by birth, will be deemed to be member of a Scheduled Caste or Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe.
>
> Similarly, a person who is a member of a Scheduled Caste or Scheduled Tribe would continue to be a member of that Scheduled Caste or Scheduled Tribe as the case may be even after his or her marriage with a person who does not belong to a Scheduled Caste or Scheduled Tribe."

V. The appellate authority is observed that during the course of arguments that the appellant advanced her arguments and admitted that she belongs to **Padmasali – BC-B** community and after her marriage she obtained SC-Mala caste certificate as she married a person who is a member of Scheduled Caste. On verification of the arguments and the documents

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and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the claim of appellant as SC-Mala only through marriage but not her birth and admittedly she belongs to BC-B Community. That as a principal that a person who is not a SC by birth shall not entitled SC certificate after marriage based on marriage with SC person. In the instant case also the appellant claim is as SC after the marriage with SC person as such the same is not tenable. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference .

8. In view of the above reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed Smt. A. Nakshatra, D/o A. Rayanna, does not deserve any interference. Hence, Proceedings of the District Collector, Anantapur issued vide Rc.No.MC3/2948/2010, dated 16.12.2012, is hereby upheld and the Appeal Petition filed by Smt. A. Nakshatra, D/o A. Rayanna, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Puttaparthy deemed to be cancelled .

9. The District Collector, Anantapur is directed to take necessary consequential action in the matter.

10. The records (containing Rc.No.MC3/2948/2010, dated 16.12.2012) received from the District Collector, Anantapur through in the reference 6th read above, are returned herewith in original to the District Collector, Anantapur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Anantapur.
(with original records) (BY RPAD)

Smt. A. Nakshatra, D/o Rayanna,
R/o D.No.7-135, New Town, Anantapur, Anantapur District.

Sri N.Chandra Sekhar Reddy & Sri Malleswara Rao, Advocates,
17-1-391/s-571, Singareni Colony, Hyderabad.

Copy to :
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW).

// FORWARDED:: BY ORDER //

SECTION OFFICER